



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED 13.06.2019  
CORAM  
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

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W.P.No.20602 of 2010  
and MP.Nos.1 of 2010 and 1 of 2011

M.Subramaniyam

..Petitioner

Vs

1. The Sub-Registrar,  
Nallur Sub-Registrar Office,  
Tirupur.
2. Nachammal
3. Kamalathal
4. P.K.Sivasamy

..Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 16.08.2010 made in obstruction petition in Na.Ka.203/2010 passed by the 1st respondent and quash the same and consequently forbear the 1st respondent from registering any document in respect of the properties comprised in S.F.No.628, 354/3 and 344/1 admeasuring an extent of 3.66 acres situated at Veerapandi Village, Tiruppur Taluk without complying Section 5 (1) of the Patta Pass Book Act.

For Petitioner : Mr.G.Ethirajulu  
For Respondents : Mr.P.P.Purushothaman,  
G.A., for R1  
Mr.NEA. Dinesh Kumar  
for M/s.Nicholas, for R2  
R3 - Dismissed, vide Court order  
R4 - No Appearance  
- - - -

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the order dated 16.08.2010 and consequently forbear the 1st respondent from registering any document in respect of the properties comprised in S.F.No.628, 354/3 and 344/1 admeasuring an extent of 3.66 acres situated at Veerapandi Village, Tiruppur Taluk.



2. According to the petitioner, he is the absolute owner of the properties mentioned supra, by virtue of a registered deed of partition dated 18.07.1985. While so, the second respondent filed a suit in O.S.NO.25 of 1989 before the District Munsif Court, Tiruppur claiming partition. The Trial Court granted preliminary decree, followed by final decree in Application No.229 of 2005 dated 28.10.2009.

3. It is the case of the petitioner that he had challenged the final decree in an appeal in A.S.No.11 of 2010 before the Sub Court Tiruppur. However, pending appeal, the respondents 2 to 4 attempted to create encumbrance and hence he filed a protest petition before the first respondent.

4. The first respondent rejected the protest petition by observing that under the Registration Act, the petitioner's request cannot be considered and also directed him to approach the Court for redressal of his grievances.

5. Heard the learned counsel for the petitioner, learned Government Advocate for the first respondent and the learned counsel for the second respondent and perused the materials available on record.

6. In the instate case, it is seen that a suit in O.S.No.25 of 1989 was filed by the second respondent before the competent Civil Court for a decree of partition. It is the grievance of the petitioner that when the judgment and decree in the said suit has been challenged by way of an appeal, the first respondent attempted to create encumbrance.

7. It is settled law that the first respondent has no authority to conduct enquiry to find out the real owner of the property in dispute and unless, any order prohibiting the first respondent from registering the document, he is bound to register the document under the Registration Act on compliance of other requirements.

8. In the matter on hand, if the petitioner has any apprehension at the hands of the private respondents, his remedy is before the Civil Court either in the pending proceedings or by instituting separate suit. Hence, I find no error or illegality in the order impugned in this writ petition.



9. In that view of the matter, the Writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-  
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

pvs

To

The Sub-Registrar,  
Nallur Sub-Registrar Office,  
Tirupur.

+1cc to Mr.V.Nicholas , Advocate SR.No. 49008  
+1cc to Mr. G.Ethirajulu, Advocate SR.No. 48105  
+1 cc to Government Pleader Sr.No. 49148

W.P.No.20602 of 2010

A.SK(31/07/2019)